



City of Waukesha  
Department of Community Development  
**BOARD OF ZONING APPEALS**  
201 Delafield Street, Waukesha, WI 53188

Stamp Date Received

**NOTICE:** The Board meets on the first Monday of every month at 4:00 p.m. in the upper level hearing room (207) at Waukesha City Hall. **ATTENDANCE OF THE APPLICANT OR A REPRESENTATIVE IS REQUIRED.** Failure to appear could result in the application being acted on without the applicant's input, or it could result in the item being removed from the agenda, requiring the applicant to reapply and pay another filing fee.

The appeal or application must be filed with the Community Development Department at least 17 days before the Board's meeting and within 20 days of the Zoning Inspector's order or decision, accompanied by the filing fee of **\$100.00**.

This application is for (choose one)

☒ A variance from section 32.10 of the zoning code ☐ An appeal from the decision of the Zoning Inspector

For the property identified below:

Project Address: 2300 Badger Drive Tax Key #: WAKC1328998

Current Zoning: Manufacturing - M-2 Existing Use: Manufacturing - M-2

**ATTACH DETAILED DESCRIPTION OF PROPOSAL** including what is being requested, the rationale, and if a variance request, the facts and circumstances that satisfy the criteria for variance listed on the reverse of this form.

In order to be placed on the Board of Zoning Appeals agenda, the Community Development Department must receive the completed application, fee, project description, and a set of plans in PDF format by the applicable deadline. If this is an appeal from the decision of the Zoning Inspector, also attach a copy of the decision or order rendered by the Zoning Inspector and a statement of principal points on which the appeal is based. The Community Development Department - Planning Division should be consulted to assure an application is complete before being submitted.

**SEE REVERSE FOR DEADLINES AND ADDITIONAL INFORMATION.**

Applicant: (Person to receive notices)

Name: Chris Johns - EUA

Address: 333 E. Chicago St.

City & Zip: Milwaukee, WI 53202

Phone: 414-291-8152

E-mail: chrisj@eua.com

Owner of property:

Dave Kieffer - Eaton

2300 Badger Drive

Waukesha, WI 53188

262-844-9521

davidakieffer@eaton.com

I certify that the above statements and the statements contained in the materials submitted with this application are true and correct.

Applicant Signature

03/22/2021

Date

**PLEASE NOTE: THIS FORM MUST BE ACCOMPANIED BY A \$100.00 FILING FEE**

For Internal Use Only

Amount Paid: _____	Check # _____	Received by: _____
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***Please see the attached narrative for the request for variance.***

## **VARIANCES**

A variance is a special exemption from the city zoning code granted by the Board of Zoning Appeals in unusual circumstances on a case-by-case basis. Variances are difficult to obtain, and they are not granted simply because of an applicant's desire to do certain things or use a property in a certain way. In order to receive a variance an applicant must show that a unique hardship exists on the applicant's property. An applicant bears the burden of proving that all of the following criteria for a variance are satisfied:

1. Special circumstances exist that apply only to the property for which the variance is requested, and not to any other neighboring properties. The special circumstances must relate to the property itself, and not to the applicant's desired use of the property. Explain the circumstances and how they are unique to the applicant's property.
2. Without a variance, substantial property rights that are enjoyed by neighboring properties will be denied to the applicant. Explain how the owners of neighboring properties are able to enjoy property rights that the applicant cannot.
3. The variance is not being requested solely for economic loss or gain. Explain how the variance is not just to increase property value or to allow profit-making activities.
4. The applicant's hardship is not self-created. Explain how the special circumstances relating to the property are not caused by the applicant's actions or wishes.
5. The variance would not defeat the purpose of the zoning ordinance, and would not be a detriment to neighboring properties. Variances cannot be contrary to the policy reasons for the ordinance from which the variance is requested. Explain how the variance would work within the existing zoning rules and not undermine the reasons for them.

In addition, please provide the following information:

If applicant is asking for a use variance, explain how the property will have no reasonable use unless a variance is granted.

If applicant is asking for a dimensional variance, explain how complying with the current rules is unreasonable or creates an unnecessary burden on the applicant.

**Please review these criteria prior to application submission and address each of them in your detailed description of the proposal. Failure to address each point will result in a rejection of the application.**

**Fees are nonrefundable.**



milwaukee : 333 E Chicago St	414.271.5350
madison : 309 W Johnson St, Ste 202	608.442.5350
denver : 1899 Wynkoop St, Ste 300	303.595.4500
	<a href="http://eua.com">eua.com</a>

March 22, 2021

## Board of Zoning Appeals Request for Variance Narrative

Eaton operates a large manufacturing operation at 2300 Badger Drive. They are expanding their facility and operations on this site as part of a 200,000sf addition that was approved in 2020. Construction activity has been ongoing since Fall 2020.

Within the confines of their existing manufacturing plant is a 1,200sf paint storage room that houses paint products. Due to the products being stored and code classifications, this room requires explosion relief and blast resistance. When it was built in 1990, this room was designed to code, however since then the code has changed. **The existing paint storage room is no longer up to current code for explosion relief and blast resistance under the H-3 Occupancy it requires.**

Modifying the existing paint storage room to provide explosion relief vertically through the existing roof is not structurally or economically feasible. Nor is it structurally or economically feasible to reinforce the existing paint storage room for blast resistance given the height of this existing room within the existing plant. **Current design criteria makes this existing room obsolete as an H-3 Occupancy and beyond the ability to update.**

**As a result, Eaton would like to relocate their paint storage room to the West side of their new building addition with an identically sized 1,200sf 3-sided addition.** Due to explosion relief and blast resistance requirements, placing this room within the footprint of the new addition is not feasible. For safety it should be located outboard of the main manufacturing plant and be separated by a reinforced wall designed for 100psf blast resistance.

An important note is the new paint storage room will not be increasing the capacity of stored hazardous material with-in the facility. The new paint product storage room will be the same size as the existing and not creating a higher hazard than previously existing at this location. The new storage room is designed to meet higher safety standards of the current code requirements.

### The West façade of the new addition was selected for two (2) primary reasons:

1. Safety/Isolation: The location provides unoccupied surroundings that allow for a 'safety buffer zone' adjacent to the required 'blast relief areas' on the enclosure.
  - a. Immediately to the West of the enclosure is a new stormwater retention pond.
  - b. Immediately to the South of the enclosure is lawn area.
  - c. The proposed wall on the North elevation of the paint enclosure would be reinforced masonry designed with a blast-rating to protect the generator and loading dock area to the North.
  - d. Combined, we are establishing a built-in safety buffer that helps ensure no persons or vehicles would be in the immediate 'blast zone' in the event an explosion should occur.
2. Accessibility: The adjacent loading dock operations to the North establish an area within the building that has unimpeded access to the interior paint enclosure doorway.
  - a. Paint products housed in 55-gallon drums and smaller will be delivered to the plant via the adjacent loading docks and brought into the heated paint enclosure for storage.
  - b. As the manufacturing process requires, these drums are removed from the paint enclosure and taken to the paint line locations within the manufacturing plant for use.

- c. Having unimpeded travel pathways is imperative to ensuring these paint products are handled safely in transport.

The above concept was presented by Eaton and their design team to the Plan Reviewer (DA Mattox), Building Inspector (Kristin Stone), and Fire Marshall (Brian Charlesworth) during the week of March 15. The concept of a new 3-sided paint enclosure added onto the West façade and designed in accordance with a H-3 Occupancy Type was viewed as a positive and safe solution to dealing with the existing paint storage room. The one aspect of the new paint enclosure that needed more clarity was the quantity of in-room spill containment, however that topic is separate from this Variance.

**During review of the proposed design with Waukesha Planning and Zoning, it was found that the proposed solution does not comply with a horizontal setback requirement.** Per Chapter 32 of the Stormwater Management and Erosion Control code, under Section 32.10, there is a requirement that there is a 40' horizontal offset from the building to the 100-year high water level. In Eaton's situation, the 100-year high water level at the new stormwater retention pond yields a horizontal distance that is 25.4' to the edge of the proposed addition (**i.e. less than the 100-year high water level 40' setback requirement per Section 32.10**). **This is the purpose of this Variance Request.**

However, the vertical offset provides ample distance between the 100-year high water level (elevation 28.89') and the proposed finish floor elevation of the paint enclosure (38.5'). **This is a vertical difference of 9.61' between 100-year high water level and finish floor.** There is no basement below this floor level. In addition, the threshold and top-of-concrete-wall elevations are set at an elevation of 39.0' to establish the 0.5' tall spill-containment curb within the proposed new room. *Accounting for this curb height, water levels within the retention pond would need to be 10.11' above the 100-year high water level before they could spill into the building.*

**We are requesting a Variance to the 40' horizontal setback requirement to allow for the 25.4' horizontal setback per our attached drawing design.** We have reviewed the following alternatives, but none yielded better solutions than pursuing this variance. Those alternatives considered and the reasons why not pursued include:

1. Enlarge Retention Pond to Lower 100-year storm elevation.
  - a. This option is not feasible due to the 'landlocked' nature of the pond and the maximum allowable grades (4:1) surrounding the pond.
    - i. To the West, the pond is bordered by an existing main driveway that runs North-South. To the west of this drive are existing wetlands, so shifting and repaving the driveway is not an option. The new pond cannot grow farther to the West.
    - ii. To the South, the pond is bordered by a spillway into an existing stormwater discharge point consisting of the intersection of (3) existing culverts which also handle the discharge from the existing wetlands to the west of the North-South driveway. The new pond discharges into this area via new outlet structure and a fourth culvert. The new pond cannot grow farther to the South.
    - iii. To the North, the pond is bordered by the new loading docks serving the addition. The new loading dock apron cannot be reduced (or shifted northward) without losing at least one (1) of the (6) proposed loading docks. The new large pond cannot grow farther to the North.
    - iv. To the East, the pond is bordered by the new building addition. There is a 4:1 slope leading up to the building floor elevation of 39'. This is the maximum slope allowed on the grades surrounding ponds per Waukesha. The pond cannot grow farther to the East.
    - v. Lowering the depth of the pond will not change the Normal Water Level or the 100-year high-water level, so this is not an option either. The elevation is set by the new outlet structure, which cannot be lowered due to the surrounding existing outflow elevations and adjacent wetland spillways.
2. Relocate Paint Enclosure Room to a different exterior wall location around the building.

- a. Though the proposed 3-sided paint enclosure could surely be located at a different location on the existing building, it would not be the best or safest location for the paint enclosure room.
  - i. Internal Transportation Logistics/Safety: to transport the paint products safely within the plant, the paint storage room needs to be located along primary travel paths with clear accessibility to the room. The physical transportation of hazardous products is the timeframe of maximum concern, so it is important that we limit and control that timeframe.
    - The proposed location immediately south of the new loading docks allows for unimpeded access into the paint enclosure for storing material.
    - The location is also along a primary internal aisle that will ensure the area is not blocked by production equipment traffic.
    - Other exterior wall locations within the existing plant and proposed addition do not have unimpeded access – most are filled up with production equipment and are inaccessible to forklifts.
    - The location will not force forklifts to exit and re-enter the building via an exterior travel route. Handling product over exterior terrain in winter months is not safe, nor are the slippery concrete floor conditions created when forklifts bring rain and snow back into the building.
  - ii. Explosion Relief Safety: The purpose of the paint enclosure room is to safely house the paint products in a controlled environment when not being actively used for the painting of new product. As a H-3 (high hazard) Occupancy Classification, this room needs to be designed for the possibility of an explosion.
    - With this in mind, the locations of the explosion relief panels and the blast-rated masonry walls are designed to direct any blast westward towards the pond – a location where people and vehicles are not present.
    - No other location around the new or existing building allows for such an isolated and safe location to direct the blast-relief. Other locations are adjacent to parking lots and driveways. None have the pond to create the isolated buffer.

As a firm with extremely high safety requirements for their employees and operations, Eaton strongly prefers the proposed location for this paint storage enclosure. As outlined above, the location proposed optimizes both operational safety within the building, as well as safety of those outside of the building in the event of accident. Due to the 9.61' elevation difference between the 100-year high water level and the finish floor within the paint storage room, we believe the flooding concerns are negated. As such, we hope a variance will be granted by the Board of Zoning Appeals to allow Eaton to relocate the paint storage room to a new paint enclosure on the West façade of the new addition to continue their operations in the safest manner possible.